

REMARKS

This Preliminary Amendment is being filed with a Continued Prosecution Application (CPA). Reconsideration and further examination of the application as amended are respectfully requested.

At paragraph 2 of the final Office action, claims 1, 2, and 4-7 were finally rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,185,219 to Christie ("Christie) in view of U.S. Patent No. 5,892,754 to Kompella et al. ("Kompalla"). Independent claims 8, 13 and 18 were also rejected in part based on Christie. Applicants have amended claims 1, 8, 13 and 18 to more clearly distinguish their invention over the art of record.

In particular, Christie teaches a system in which a centralized, communication control processor (CCP) 120 issues signals to the plurality of network elements to specify the path to be used between first and second points 170 and 172. See, Col. 6, lines 26-67 and Fig. 1. In fact, Christie makes clear that the centralized CCP 120 must determine the path. See, Col. 7, lines 29-31 ("The CCP may select combinations of the above options, but **the CCP will always select at least one network characteristic.**") That is, in Christie's system, the first and second points 170 and 172 are neither aware of the particular path used to interconnect them, nor do they have any involvement in its selection. Indeed, the Examiner also recognized this aspect of Christie. More specifically, at pp. 4-5 of the Office Action, the Examiner recognized that it is Christie's centralized CCP 120

that “determines” and “selects” the particular communication path to be used to interconnect the first and second points 170 and 172.

Independent claims 1, 8, 13 and 18 have each been amended to more clearly recite that, with applicants’ invention, it is the end stations themselves that generate and transmit the path state setup message(s) used to define the selected communication path. In particular, claim 1 as amended, recites in relevant part the step of:

**“utilizing at least one path state set-up message formulated by the first entity and passed to each network node along the selected path to establish a path state at each network node along the selected path for identifying a traffic flow having predefined parameters, and for forwarding messages matching the predefined parameters of the traffic flow to a next downstream network node along the selected path”.**

Thus, contrary to the teachings of Christie, the present invention recites an arrangement in which the first entity determines and selects the desired path by generating and issuing the path state setup message. None of the art of record teaches or suggests the claimed step of generating and transmitting a path state setup message by at least one of the two entities at the ends of the communication. Accordingly, the obviousness rejection should be withdrawn. See MPEP §2142 (to establish a prima facie obviousness rejection, the prior art references “must teach or suggest **all** the claim limitations”). Furthermore, because Christie explicitly teaches away from the claimed arrangement, Christie is not a proper reference for an obviousness rejection. See MPEP §2141.01.

Independent claims 8, 13 and 18 have similarly been amended to recite that it is the first and/or second entities that determine and select the desired path by generating and transmitting path state setup messages themselves.

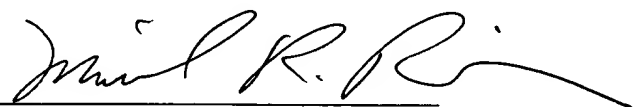
Support for the amendments exists in the specification as originally filed. In particular, the Examiner's attention is directed to p. 11, lines 27-29 (source entity 202 formulates and transmits a path state setup message); p. 14, lines 19-20 (after generating the path state setup message, source entity 202 transmits the message into the network), and p. 16, line 29 to p. 17, line 1 (destination entity 204 generates and transmits a return path state setup message), among other places. No new matter is being introduced

For these reasons, applicants submit that the application is in condition for allowance and early favorable action is requested.

Applicants have also amended the specification in several locations to correct minor, typographical errors that have been discovered. No new matter is being introduced.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



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